

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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KENNETH ZYSK,

Petitioner,

v.

Case No. 07-10282

PATRICIA BARNHART,

Respondent.

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**ORDER DENYING PETITIONER'S  
"MOTION FOR CERTIFICATE OF APPEALABILITY" AND  
"APPLICATION TO PROCEED . . . WITHOUT PREPAYMENT OF FEES"**

Pending before the court are a motion and an application filed by Petitioner Kenneth Zysk. First, Petitioner has filed a "Motion for Certificate of Appealability." The court considered, and declined to issue, a certificate of appealability in its May 29, 2009 order denying Petitioner's petition for a writ of habeas corpus (5/29/09 Order at 6), which Petitioner notes in his current motion. (Pet'r's Pet. at ¶ 4.) The court is aware of no reason to revisit that ruling now.

Petitioner has also filed a standard form application to proceed with an appeal without the prepayment of fees and costs. To grant such an application, 28 U.S.C. § 1915 requires that a prisoner "shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined." 28 U.S.C. § 1915(a)(2). Petitioner has provided no such trust fund account statement. Further, 28

U.S.C. § 1915 permits a prisoner only to avoid the prepayment of fees, it does not allow the full avoidance of fees. See 28 U.S.C. § 1915(b)(1). As such, Petitioner is required to “authorize the correctional facility in which [he] is currently housed to . . . withdraw from [his] trust fund account” a partial filing fee. (Pet’r’s App. at 2.) Petitioner has not completed that portion of the form which authorizes such a withdrawal. As his form application lacks supporting documentation and is incomplete, it will be denied.

Accordingly, IT IS ORDERED that Petitioner’s “Motion for Certificate of Appealability” [Dkt. # 19] is DENIED.

IT IS FURTHER ORDERED that Petitioner’s “Application to Proceed . . . Without Prepayment of Fees” [Dkt. # 17] is DENIED.

s/Robert H. Cleland  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: July 6, 2009

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, July 6, 2009, by electronic and/or ordinary mail.

s/Lisa G. Wagner  
Case Manager and Deputy Clerk  
(313) 234-5522